

“Nearly there!?” – Challenges and Chances of the GDPR with 8 months to go until applicability

Abstract

The EU General Data Protection Regulation, which provides new and updated rules for the protection of personal data that affect controllers, processors, data subjects and data protection authorities, will become applicable in May 2018. There are numerous issues including scope, rights, obligations, context with other instruments, international reach, enforcement, and others, that are still debated and for which it is far from clear what the applicability of the GDPR will mean in future. Currently, all Member States are adapting their national frameworks to prepare for this new situation when the EU legislation will have direct applicability but there are some areas with “opening clauses”, as well as the details concerning the national Data Protection Authority, that can be filled by national law. Luxembourg has just presented the bill changing its data protection act.

In view of the need to have scientific and practical guidance for the application of the GDPR, a researcher from the University of Luxembourg and FIZ Karlsruhe, Leibniz-Institute for Information Infrastructure are editing a Commentary on an article-by-article basis of the Regulation, as well as accompanying chapters concerning overarching data protection issues. Professors Cole and Boehm have gathered a team of more than 30 authors from across Europe and different backgrounds to ensure a broad view on the GDPR. In the context of this project – for which the book will be available in 2018 – a number of the experts will deal in this conference with some of the most contentious issues taking stock a few months before GDPR applicability.

Wednesday, 13 September 2017
9:30 – 14:30 h

Location

Faculty of Law, Economics and Finance
Weicker Building, Room B001
4, rue Alphonse Weicker
L-2721 Luxembourg

Language

English

Registration

- Free participation
- Maximum number of attendants: 80
- Registration via <http://bit.ly/2iGeMPO>

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Programme

9.30 | Welcome words

Introduction and Moderation by Prof. Dr. Mark D. Cole

Professor of Media and Telecommunication law at the University of Luxembourg (FDEF) and Director for Academic Affairs at the Institute of European Media Law (EMR); Co-Editor of the Elgar GDPR-Commentary

| Panel 1: The (new) framework for data processing in view of the GDPR principles and its scope

This panel seeks to explore to what extent the GDPR framework and its accompanying measures actually create a new framework and give a suitable, legally certain basis for the processing of personal data in the EU Digital Single Market and beyond. We will do so by discussing which explicit and underlying principles such as 'Data Ethics' characterize the GDPR, and how the GDPR differs from other instruments, such as the Directive concerning the processing of data in the Police and Criminal Justice sector. We will point out why dealing with the new legislative framework from May 2018 onwards is so challenging.

| Panel 2: The place of data subjects in light of old and new rights and obligations for data 'users'

This panel will discuss the changes of the GDPR for data subjects as well as for the situation of data controllers and processors, meaning especially companies using personal data in their business activities. Which are the limits for data use, which obligations do undertakings have to comply with? What on the other side are the rights of individuals and have they changed significantly at all? What about enforcement of these rights which are fundamental rights of persons? These and other questions, e.g. regarding specific types of data processing such as by the media, will guide the second panel.

| Panel 3: The new instruments and procedures in the GDPR

The GDPR will include new ways for protecting the rights of data subjects. This can be done on the one hand by means of new instruments such as certification possibilities for trustworthy data protection, as well as through new procedures such as a mandatory notification of personal data breaches. This panel will discuss the advantages of these new approaches. We will also tackle the challenges inherent to some of these new instruments, such as defining and performing a data protection impact assessment.

14.15 | Concluding Remarks

There will be drinks and a sandwich lunch offered in between panels. Therefore we need you to register.

The conference is organised by the Research Unit in Law of the University of Luxembourg (RUL) and FIZ Karlsruhe, Leibniz-Institute for Information Infrastructure as a stocktaking exercise highlighting some of the issues of the GDPR that need special attention in the coming months and after applicability. After a general introduction, 3-4 speakers will in three panels present their viewpoint on the above-mentioned topics before entering into a discussion with the conference participants. As all speakers are involved in the GDPR-commentary project they will also be joining discussions of the topics of the other panels. This workshop-style conference reflects the need for stocktaking a few months in advance of the date of applicability of the GDPR acknowledging at the same time that it is still a "moving target", and that things will further evolve in the coming months and years. The commentary will not only cover the GDPR in its entirety but also have chapters on Data Ethics, Big Data, The historical development of the European Data Protection legal framework, the Fundamental Rights aspects of Privacy and Data Protection (including the ECHR/ECtHR- and EU/CJEU-perspectives and the substantive and remedies issues), Related Instruments such as the Directive on Data Protection in the Police and Criminal Justice Sector and International aspects such as the Council of Europe Convention No. 108 and U.S. and other Perspectives on the GDPR. More information will be available on the website of www.medialaw.lu and www.e-elgar.com in due course.

Panelists will include the following, details about the speakers can be found on the subsequent pages:

Tobias Bräutigam, Bird & Bird Attorneys, Helsinki / Maja Brkan, Maastricht University / Diana Dimitrova, FIZ Karlsruhe / Carol Evrard, Stibbe Lawyers, Brussels / Dr. Andra Giurgiu, SnT, University of Luxembourg / Prof. Gloria González Fuster, Vrije Universiteit Brussel / Dr. Hielke Hijmans, independent legal advisor / Prof. Alessandro Mantelero, Polytechnic University of Turin / Prof. Tuomas Ojanen, University of Helsinki / Teresa Quintel, University of Luxembourg / Juraj Sajfert, DG Justice and Consumers, European Commission / Christoph Sorge, Saarland University / Max Spielmann, Schiltz & Schiltz / Erik Valgaeren, Stibbe Lawyers, Brussels / Annelies Vandendriessche, University of Luxembourg / Dr. Frederik Zuiderveen Borgesius, Institute for Information Law, Universiteit van Amsterdam

Authors/Speakers



Tobias Bräutigam is counsel in the Privacy and Data Protection Group of Bird & Bird Attorneys Ltd. He previously worked at Microsoft, where he was a senior legal counsel with responsibility for privacy and data protection. He specializes in advising on a range of data compliance projects.

Andra Giurgiu is a postdoctoral research associate at the Interdisciplinary Centre for Security, Reliability and Trust (SnT) of the University of Luxembourg. Her main area of research is in the field of EU data protection law, with a particular focus on the new General Data Protection Regulation. From January 2014 until December 2017, she has worked on a project in collaboration with Luxembourg's National Commission for Data Protection. Her current research activities at the SnT have a strong interdisciplinary focus, at the intersection between data protection law and technology.



Maja Brkan is Assistant Professor of European Union Law at Maastricht University since 2013 where she is responsible for coordinating the core course on EU institutions and for supervising students researching on data privacy aspects of Big Data and Artificial Intelligence. She is a member of the European Centre on Privacy and Cybersecurity (ECPC), holds a position of Associate Editor of the European Data Protection Law Review and regularly presents her work at international conferences in Europe and in the US. Before moving to Maastricht, she worked as a legal advisor (référéndaire) at the Court of Justice of the EU (2007-2013).



Hielke Hijmans is a specialist in EU privacy law and works as independent legal advisor in the domains of EU law, fundamental rights, privacy and data protection. For 12 years, Hielke served at the offices of the European Data Protection Supervisor (EDPS), inter alia as head of unit policy and consultation.



Diana Dimitrova is a research associate in the Intellectual Property Law Unit at FIZ Karlsruhe. Her research focuses on data protection and privacy, particularly in the Area of Freedom Security and Justice (AFSJ). At the FIZ, she currently participates in STARR, an H2020 EU project targeting the self-management of stroke risk factors, including the study of privacy and data protection issues concerning IT applications usage by stroke survivors.



Alessandro Mantelero is professor of Law at the Polytechnic University of Turin, where he teaches Private Law (U), Innovation and International Transactions law (G), and Technology & Law by Design (PhD). He is coordinator of the degree program in Management and IP Law at the Polytechnic University of Turin and Tongji University of Shanghai, and part-time expert at the Nanjing University of Information Science & Technology. He has held visiting appointments at Harvard, Oxford, Nanjing University and Universitat Oberta de Catalunya.



Carol Evrard is Junior Associate in the Brussels office of Stibbe and was admitted to the Bar in 2014. She is part of the TMT team and specializes in data protection related practice fields.



Tuomas Ojanen is Professor of Constitutional Law at the University of Helsinki and Director of the Research Consortium 'Laws of Surveillance and Security: Constitutional Limits, Legislative Discourses and Transnational Influences', funded by the Academy of Finland. His main areas of research and expertise include Finnish constitutional law, comparative constitutional law, international human rights law and constitutional law of the European Union. Furthermore, he participates in several projects on security and surveillance.



Gloria González Fuster is a research professor at the Vrije Universiteit Brussel (VUB)'s Faculty of Law and Criminology. Member of VUB's Law, Science, Technology and Society (LSTS) Research Group, she investigates legal issues related to privacy, personal data protection and security, and lectures on EU fundamental rights. She is currently contributing to various research projects on privacy and data protection, as well as on cybersecurity, research integrity and scientific misconduct.



Teresa Quintel is a doctoral candidate at the Faculty of Law, Economics and Finance of the University of Luxembourg and at the Department of Law at Uppsala University under the joint-supervision of Prof. Mark D. Cole and Prof. Maria Bergström. Besides contributing to the projects of the media law team of the University of Luxembourg, Teresa's research focuses on data protection rights for irregular migrants, particularly in the light of the EU Data Protection Reform.



Juraj Sajfert is a member of the Data Protection Unit of the Fundamental Rights and Rule of Law Directorate within DG Justice and Consumers at the European Commission, where he works on EU data protection law. Juraj has been closely involved in the process of drafting and negotiating the new EU data protection legislation, particularly focusing on the Directive covering data protection in the sector of police and criminal justice. He is also in charge of the revision of data protection rules for Union institutions and bodies.



Erik Valgaeren advises a broad spectrum of clients from businesses to financial institutions at Stibbe in Brussels, where he is partner since 2001. His practice focuses on IT, internet, e-commerce and electronic communications law. Erik also deals with intellectual property issues relating to these areas, driven by the increasing interaction between infrastructure and the content/information communicated.



Christoph Sorge is holder of the juris professorship of legal informatics at Saarland University and professor at Saarland University's Faculty of Law and Economics. In addition, he is co-opted member at the Faculty of Mathematics and Computer Science and one of the directors of Saarland University's Institute of Law and Informatics. His research interests include the applications of cryptography in network security, privacy enhancing technologies, data protection law and information law, as well as IT applications in the legal systems.



Annelies Vandendriessche is a doctoral candidate at the Faculty of Law, Economics and Finance of the University of Luxembourg under the supervision of Prof. Dr. Mark D. Cole, Professor for Media and Telecommunication Law at the University of Luxembourg. Besides contributing to the work of the media law group of the University of Luxembourg, her research focuses on data protection and privacy, in its interaction with the right to freedom of expression.

Max Spielmann is a lawyer and a member of the Luxembourg bar specialised in EU and Luxembourg data protection law. During the Luxembourg Presidency of the Council of the European Union in 2015, he was a member of the Luxembourg government team in charge of the negotiations of the General Data Protection Regulation. In his capacity as Adjunct senior lecturer, he is currently teaching Luxembourg Tech Law at the University of Luxembourg.



Frederik Zuiderveen Borgesius is a researcher at the Institute for Information Law (IViR) of the University of Amsterdam. His research interests include profiling, privacy, data protection law, freedom of expression, and discrimination. He has published widely on these topics. Frederik currently is working on the Personalized Communication project, a joint initiative of the IViR and the Amsterdam School of Communication Research (ASCoR).

Editors



Mark D. Cole is Professor of Media and Telecommunication law at the University of Luxembourg, Faculty of Law, Economics and Finance, and Director for Academic Affairs at the Institute of European Media Law (EMR) in Saarbrücken. Additional appointments are Faculty Member of the Interdisciplinary Centre for Security, Reliability and Trust (SnT) of the University of Luxembourg, Member of the Advisory Assembly of the Audiovisual Media Regulatory Authority (ALIA, Autorité Luxembourgeoise Indépendante de l'Audiovisuel) in Luxembourg and co-director of the Institute for Legal Informatics of the Universität des Saarlandes.



Franziska Boehm is law professor at FIZ Karlsruhe, Leibniz-Institute for Information Infrastructure and at the Karlsruhe Institute for Technologies (KIT). Before, she was assistant professor at the University of Münster. Franziska mainly teaches IT-Law, IP-law, data protection law and media law. Franziska has published widely on topics such as data retention, surveillance and data protection in general, and has given advice for several reports to the European Parliament, the German parliament and federal Parliaments.